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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Erwin Pasbrig

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EXAMINER

AUGHENBAUGH, WALTER

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/553,125	Applicant(s) PASBRIG, ERWIN	
	Examiner WALTER B. AUGHENBAUGH	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☒ Claim(s) 14-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgement of Applicant's Amendments

1. Applicant's amendments made in claims 1, 5, 7, 8 and 10 in the Amendment filed August 11, 2008 have been received and considered by Examiner.
2. Applicant's replacement abstract presented in the Amendment filed August 11, 2008 has been received and considered by Examiner.

WITHDRAWN OBJECTIONS

3. The objection to the abstract has been withdrawn due to Applicant's amendments in the abstract in the Amendment filed August 11, 2008.
4. The objection to the claims has been withdrawn due to Applicant's renumbering of the claims in the Amendment filed August 11, 2008.

WITHDRAWN REJECTIONS

5. All rejections under 35 U.S.C. 112, 102 and 103 made of record in the previous Office Action mailed April 8, 2008 have been withdrawn due to Applicant's amendments in the Amendment filed August 11, 2008.

NEW OBJECTION

Claim Objections

6. Claims 14-21 are objected to because of the following informalities: claims 14-21 are duplicate claims of claims 5-12. Appropriate correction is required.

NEW REJECTIONS

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 3, 5, 6, 10-15 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bunin (USPN 4,911,304).

In regard to claim 1, Bunin teaches a blister pack that corresponds to the claimed blister pack, where the upper two ply laminate 13 corresponds to the claimed cover, the upper PVC plastic sheet having cavities 11 corresponds to the claimed blister base part having at least one cup, and the lower two ply laminate 13 corresponds to the claimed lower sealing tray. See Fig. 2 and col. 3, lines 25-47 and claims 1-7 at col. 4, line 36-col. 6, line 15. Bunin teaches that the thickness of the plastics material film layer of the lower sealing tray is about 0.02 mm (20 microns, col. 4, lines 58-60), a value that falls within the claimed thickness range of 10 to 40 microns.

In regard to claims 3 and 13, Bunin teaches that the thickness of the plastic film layer of the lower sealing tray is about 0.02 mm (20 microns, col. 4, lines 58-60), a value that falls within the claimed thickness range of 15 to 30 microns.

In regard to claims 5 and 14, the plastics material of the blister base part of Bunin has “a barrier with a penetration barrier effect against steam and/or gases” because it is formed from a

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continuous film of plastics material (i.e. a film that is not perforated: any sheet of plastics material has some degree of “penetration barrier effect against steam and/or gases”).

In regard to claims 6 and 15, Bunin teaches that the blister base part is constructed from polyvinyl chloride (PVC). See, for example, claims 2 and 7 of Bunin.

In regard to claims 10 and 19, Bunin teaches that the plastics material film is constructed on the basis of polyvinyl chloride (PVC) (col. 4, lines 17-24).

In regard to claims 11, 12, 20 and 21, the plastics material film Bunin corresponds to the claimed film (or coating, which corresponds to a film) since the film taught by Bunin meets the structural and compositional limitations that are positively recited in the claims.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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10. Claims 1, 2, 4, 7-9, 16-18 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bunin (USPN 4,911,304).

In regard to claims 1, 2 and 4, Bunin teaches a blister pack that corresponds to the claimed blister pack, where the upper two ply laminate 13 corresponds to the claimed cover, the upper PVC plastic sheet having cavities 11 corresponds to the claimed blister base part having at least one cup, and the lower two ply laminate 13 corresponds to the claimed lower sealing tray. See Fig. 2 and col. 3, lines 25-47 and claims 1-7 at col. 4, line 36-col. 6, line 15). Bunin teaches that the thickness of the plastics material film layer of the lower sealing tray is about 0.02 mm (20 microns, col. 4, lines 58-60), a value that falls within the claimed thickness range of 10 to 40 microns. The plastics material film layer of the lower sealing tray corresponds to the claimed heat-sealing layer made of lacquer and the claimed plastics material coating.

Bunin fails to explicitly teach that the material of the plastics material film layer is applied at an application weight of 2 to 20 g/m² or 5 to 40 g/m² (or 7 to 15 g/m² as claimed in claim 2 or 7 to 20 g/m² as claimed in claim 4).

However, Bunin teach that the plastics material film layer of the two ply laminate functions to bond the aluminum layer to the PVC plastic sheet having cavities 11. See, for example, col. 4, lines 17-24 and lines 36-53 (claim 1) and col. 4, line 68-col. 6, line 9 (claim 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have varied the thickness of the plastics material film layer of the two ply laminate of Bunin in order to achieve the desired degree of bond strength between the aluminum layer and the PVC plastic sheet having cavities 11 depending on the particular desired end result, since it has been held that discovering an optimum value of a result effective variable involves only

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routine skill in the art in the absence of unexpected results. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). MPEP 2144.05 II.B.

In regard to claim 7, 16, 24 and 27, Bunin teaches the blister pack as discussed above in regard to claim 1. The plastics material film layer of the lower sealing tray of Bunin corresponds to the claimed heat-sealing layer made of lacquer, and the plastics material film layer of Bunin corresponds to the “protective lacquer based on the lacquer raw materials” as claimed in claims 7 and 16 since the plastics material film layer made of PVC is “based on” the “raw material” PVC. In further regard to claim 24 and 27, Bunin teach that the plastics material film layer of the two ply laminate functions to bond the aluminum layer to the PVC plastic sheet having cavities 11. See, for example, col. 4, lines 17-24 and lines 36-53 (claim 1) and col. 4, line 68-col. 6, line 9 (claim 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have varied the thickness of the plastics material film layer of the two ply laminate of Bunin in order to achieve the desired degree of bond strength between the aluminum layer and the PVC plastic sheet having cavities 11 depending on the particular desired end result, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art in the absence of unexpected results. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). MPEP 2144.05 II.B.

In regard to claims 8 and 17, the PVC plastics material film layer of the lower sealing tray of Bunin is made of the same chemical base components as the PVC plastic sheet having cavities 11.

In regard to claims 9 and 18, Bunin fails to teach that the material of the plastics material film layer (which is PVC) is any of the claimed materials. However, it would have been obvious

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to one of ordinary skill in the art at the time the invention was made to have used “PVC/AC with acrylate” as the PVC material of the plastics material film layer of Bunin in order to achieve the desired bonding properties of the laminate depending on the particular desired end result, and to have selected a particular material in order to achieve the desired bonding properties of the laminate depending on the particular desired end result. The selection of a known material based on its suitability for its intended use supported a prima facie obviousness determination in *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945); *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960) (selection of a known plastic to make a container of a type made of plastics prior to the invention was held to be obvious); MPEP 2144.07.

In regard to claims 22 and 25, Bunin teaches that the thickness of the aluminum layer is from about 20 microns to about 25 microns (claims 3 and 6 of Bunin), a value that overlaps with the claimed thickness range of 25 to 60 microns (“about 25” overlaps with the range of 25 to 60 microns).

In regard to claims 23 and 26, Bunin teaches that the thickness of the plastic film layer of the lower sealing tray is about 0.02 mm (20 microns, col. 4, lines 58-60), a value that falls within the claimed thickness range of 15 to 25 microns.

Response to Arguments

11. Applicant’s arguments regarding the rejections of the claims under 35 U.S.C. 102 (as being anticipated by Hatakeyama USPN 6,113,927) and 35 U.S.C. 103 are moot due to withdrawal of these rejections in this Office Action due to Applicant’s amendments made in claim 1.

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Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Walter B Aughenbaugh /
Examiner, Art Unit 1794

11/09/08

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1794